

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

CHAPTER 122.5

SUSPENSION, REVOCATION, OR CANCELLATION OF
COMMERCIAL DRIVER'S LICENSES AND PERMITS

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SUBCHAPTER 1
GENERAL PROVISIONS

§19-122.5-1 Scope. This chapter applies to every commercial driver's license or permit holder. [Eff 11/29/93; am and comp] (Auth: HRS §286-246) (Imp: HRS §286-246)

§19-122.5-2 Purpose. The purpose of this chapter is to:

- (1) Implement the requirements of section 286-240, HRS relating to disqualification of driving privileges of the holder of a commercial driver's license or permit; and
- (2) Establish hearing practices and procedures for aggrieved persons. [Eff 11/29/93; am and comp] (Auth: HRS §286-246) (Imp: HRS §286-246)

§19-122.5-3 REPEALED [Eff 11/29/93; R]

SUBCHAPTER 2

SUSPENSION, REVOCATION, AND CANCELLATION PROCEDURES

§19-122.5-4 Notice of disqualification. (a) A notice of the disqualification shall be sent by mail or personally delivered to the commercial driver's license or permit holder.

(b) For the purposes of this chapter, a notice will be deemed to have been received three days after the notice was mailed to the commercial driver's license or permit holder's last known address in the holder's record file. The notice and the date of mailing will be entered in the holder's file when the examiner mails the notice. A sample notice of disqualification letter, located at the end of this chapter, is made a part of this chapter and designated as Exhibit A. [Eff 11/29/93; am and comp] (Auth: HRS §§286-18, 286-241.5, 286-246) (Imp: HRS §§286-18, 286-241.5, 286-246)

§19-122.5-5 Surrender of commercial driver's license or permit. Upon receipt of a notice of disqualification, the commercial driver's license or permit holder shall surrender within three days (not counting Saturday, Sunday, or holidays), the commercial driver's license or permit to the location noted in the notice. The examiner or its

designee shall record the surrender in the electronic record and provide the holder with written documentation of receipt of the surrendered license. Receipt of the surrendered license shall be as noted in Exhibit A located at the end of this chapter. [Eff 11/29/93; comp] (Auth: HRS §286-241.4) (Imp: HRS §286-241.4)

§19-122.5-6 Duration of disqualification. The duration of disqualification shall be in accordance with sections 286-240 and 286-242, HRS. [Eff 11/29/93; am and comp] (Auth: HRS §§286-240, 286-242) (Imp: HRS §§286-240, 286-242)

SUBCHAPTER 3 HEARING PROCEDURES

§19-122.5-7 Petition for hearing. (a) Any commercial driver's license or permit holder aggrieved by any notice of disqualification may request a hearing by filing a petition for hearing with the examiner of drivers within ten days after being notified of the suspension, revocation, cancellation, or out-of-service order. A form for a petition for hearing, located at the end of this chapter, is made a part of this chapter and designated as Exhibit B. A disqualifying action by the examiner of drivers on the commercial driver's license or permit shall not be stayed pending the outcome of a hearing.

(b) The examiner of drivers may reject any petition which is not properly completed or contains altered information. [Eff 11/29/93; comp] (Auth: HRS §§286-17, 286-241.5) (Imp: HRS §§286-17, 286-241.5)

§19-122.5-8 Notice of hearing. The examiner of drivers shall notify the petitioner of the date of hearing within fourteen days upon receipt of the petition for a hearing. All petitions shall be time stamped upon receipt. The notice of hearing to notify the petitioner, located at the end of this chapter, is made a part of this chapter and designated as Exhibit C. [Eff 11/29/93; comp] (Auth: HRS §286-241.5) (Imp: HRS §286-241.5)

§19-122.5-9 Hearing officer(s). (a) The hearing officer(s) shall be appointed by the examiner of drivers.

(b) The hearing officer(s) shall serve without compensation but shall be reimbursed for reasonable incidental expenses subject to written approval by the director.

(c) The hearing officer(s) shall hear all properly submitted petitions. [Eff 11/29/93; comp
] (Auth: HRS §§286-17, 286-241.5)
(Imp: HRS §§286-17, 286-241.5)

§19-122.5-10 Duties of the hearing officer(s). (a) The hearing officer(s) shall review all evidence, all verbal and written arguments, investigative reports, and other pertinent information and testimony gathered, relevant to the suspension, revocation, cancellation, or out-of-service order as properly submitted by the office of the examiner of drivers and the petitioner.

(b) The hearing officer(s) shall make a written report on its findings, conclusions, and order on the petitioner's petition. A sample form for reporting conclusions, located at the end of this chapter, is made a part of this chapter and designated as Exhibit D. [Eff 11/29/93; comp
] (Auth: HRS §§286-17, 286-241.5)
(Imp: HRS §§286-17, 286-241.5)

§19-122.5-11 Disposition of petition. Within fourteen days after a hearing, the hearing officer(s) shall submit its findings, conclusions, and order on the petition to the examiner of drivers. The disposition shall be prepared on the findings, conclusions of law, decision and order form located at the end of this chapter, which is made a part of this chapter and designated as Exhibit E. [Eff 11/29/93; comp
] (Auth: HRS §286-18)(Imp: HRS §286-18)

§19-122.5-12 Appeal to circuit court. Any order and decision made by the hearing officer(s) may be appealed to the circuit court. [Eff 11/29/93; comp
] (Auth: HRS §286-241.6) (Imp: HRS §286-241.6)

SUBCHAPTER 4
SEVERABILITY AND REPEAL

§19-122.5-13 Severability. If any portion of this chapter is held invalid for any reason, the invalidity shall not affect the validity of the remainder of the chapter. [Eff 11/29/93; comp] (Auth: HRS §§286-241.4, 286-246) (Imp: HRS §286-241.4)

§19-122.5-14 Repeal. All rules and regulations relating to and governing the suspension, revocation, or cancellation of commercial driver's licenses and permits in effect prior to the effective date of this chapter are repealed. [Eff and comp] (Auth: HRS §§286-241.4, 286-246) (Imp: HRS §286-241.4)